

**Council
2023**

26th June

Role of the Independent Person (Standards)

Relevant Portfolio Holder	Councillor Luke Court
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton
Report Author	Job Title: Claire Felton Head of Legal, Democratic and Property Services Contact email: c.felton@bromsgroveandredditch.gov.uk Contact tel: (01527) 64252
Wards Affected	All
Ward Councillor(s) consulted	N/A
Relevant Strategic Purpose(s)	N/A
Non-Key Decision	
If you have any questions about this report, please contact the report author in advance of the meeting.	

1. RECOMMENDATIONS

The Council RESOLVE that:-

- 1) For the purposes of the appointment of independent persons under section 28(7) of the Localism Act 2011, the Council join the group of Worcestershire local authorities who operate a joint pool of independent persons.**
- 2) That authority be delegated to the Monitoring Officer to appoint the named individual independent persons currently serving in the joint pool, and to make any future appointments to the role of independent person.**
- 3) That Mr Mel Nock the Independent Person appointed by Bromsgrove District Council continue to act as Independent Person for Redditch Borough Council on a temporary basis until the end of October 2023.**
- 4) That authority be delegated to the Monitoring Officer to make any consequential changes to the Constitution.**

2. BACKGROUND

- 2.1 In 2012 the Localism Act 2011 introduced changes to the rules governing how Councils uphold standards in public life. This resulted in the introduction of a new Code of Conduct for Members and changes to the way complaints were investigated and sanctioned. The changes brought in new rules relating to the disclosure of interests, including the

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possibility of police action in cases of non-disclosure of disclosable pecuniary interests.

- 2.2 Amongst the new measures brought in was the requirement that each council should appoint at least one “independent person” whose views should be sought and taken into account by the authority before it decides on an allegation that it has decided to investigate (section 27 (7)(a) Localism Act 2011). The Localism Act also provided that the independent person could be consulted by an elected member whose conduct had been complained about, this option being available to both District Council members and Parish Council members.
- 2.3 At Council on 23rd July 2012 Members approved the details of how the relevant provisions of the Localism Act 2011 would be implemented at Redditch Borough Council. This included the appointment of an independent person for Redditch and provisions for the Bromsgrove appointed Independent Person to be made available to assist in Redditch if required.
- 2.4 Members will be aware that in recent years, as and when an Independent Person has been needed for complaints relating to Redditch Borough Council or Feckenham Parish Council, the Independent Person for Bromsgrove District Council (Mr Mel Nock) has been made available to assist and support the Monitoring Officer in the investigation process.
- 2.5 Whilst this arrangement has worked well and provided Members with access to an Independent Person, Mr Mel Nock is going to be formally standing down in the next few months, and the Monitoring Officer is currently exploring the options for finding a replacement Independent Person.
- 2.6 The options to replace the Independent Person are as follows:-
 - a. To advertise the post and carry out an inhouse recruitment process. This would involve interviewing prospective candidates as to suitability through the Appointments Committee and providing training for any successful appointees.
 - b. For Redditch Borough Council to join the existing group of Councils in Worcestershire who jointly retain a pool of Independent Persons that are made available to all the Councils in the group as and when required. The current member authorities are Worcestershire County Council, Wyre Forest District Council, Wychavon District Council, Malvern Hills District Council, Worcester City Council and Hereford and Worcester

Fire and Rescue Service. The host authority is Worcestershire County Council and the costs are shared by the participating councils.

2.7 Having considered the two options, the Monitoring Officer is of the view that the second option of joining the existing county wide joint pool has a number of advantages: -

- The County Council who administers the group has indicated that in principle the Council may join. This will provide instant access to the existing joint pool of independent persons and will thus avoid the time and expense involved in carrying out inhouse recruitment.
- The current independent persons from the joint pool will already have relevant experience of having dealt with member complaints for other councils.
- Redditch Borough Council would be required to contribute a percentage of the support costs for the Independent Persons in the joint pool but as all the costs would be shared between the participating councils it is not anticipated that this cost would exceed £500 per annum.
- A further advantage of using the joint pool would be to provide greater resilience based on the number of independent persons in the pool which currently stands at six.

2.8 The outcome of the recent Corporate Peer Challenge, emphasised the importance of improving governance generally across the Council. The recommendations in this report will support that approach with particular regard to adding resilience, achieving efficiencies and enabling the Council to involve a greater number of independent people with relevant experience in the standards process.

2.9 Members of the Audit, Governance and Standards Committee considered a report from the Monitoring Officer summarising the proposals contained in this report at its meeting on 30th May 2023 and indicated their support for the option of using the county wide joint pool.

2.10 Members are therefore asked to approve in principle the change to using the County wide joint pool of independent persons. The relevant legislation (as set out at paragraphs 5.1 and 5.2 below) requires the named individuals in the pool to be “appointed” by the Council. Historically this has been performed by Council but given that the new system is going to be more fluid and there may be occasions when changes are needed to be made more frequently, it is proposed that appointment of the named independent persons be delegated to the Monitoring Officer.

- 2.11 At the time of writing this report, the final arrangements for the Council to join the county wide group are being progressed with colleagues at the County Council. In order to provide a fall back position in case there is any delay in completing those arrangements, Mr Mel Nock has agreed that he would continue to be available to act as Independent Person on a temporary basis if required until the end of October 2023.

OPERATIONAL ISSUES

- 3.1 The reasons for the decisions sought are set out in section 2 above. From an operational point of view, the process for the investigation of standards will be no different, save that rather than calling on Mr Mel Nock to fulfil the independent person role this will be undertaken by one of the independent persons from the joint pool.

4. FINANCIAL IMPLICATIONS

- 4.1 As referred to at paragraph 2.7, Redditch Borough Council would be required to contribute a percentage of the support costs for the Independent Persons in the joint pool, such costs to be shared between the participating public bodies. At the time of writing this report the exact amount has not been clarified, but officers do not believe that the annual cost would exceed £500.
- 4.2 Other than details set out above, there are no financial implications of this report.

5. LEGAL IMPLICATIONS

- 5.1 Section 27 (1) of the Localism Act 2011 states that “a relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.”
- 5.2 Under section 28(6) and (7) of the Localism Act 2011, the Council must have in place arrangements under which allegations that a members or co-opted member of the authority (or parish council within the authority’s area), or a committee or sub-committee of the authority has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.
- 5.3 Such arrangements must provide for the authority to appoint at least one independent person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any

other stage, or by a member (or a member, or co-opted member of a parish council) against whom an allegation has been made.

6. OTHER - IMPLICATIONS

Relevant Strategic Purpose

- 6.1 Effective corporate governance including meeting the duty to promote and maintain high standards in public life and enabling conduct issues regarding councillors to be investigated are essential components for the Council's operation and the achievement of strategic purposes.

Climate Change Implications

- 6.2 None

Equalities and Diversity Implications

- 6.3 None

7. RISK MANAGEMENT

- 7.1 By approving the recommendations in this report the Council will be fulfilling its statutory obligations under Chapter 7 of the Localism Act 2011.

8. APPENDICES and BACKGROUND PAPERS

Report to Council "Standards Committee – Localism Act 2011" 23rd July 2012

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9. REPORT SIGN OFF

Department	Name and Job Title	Date
Portfolio Holder	Cllr Luke Court	15 th June 2023
Lead Director / Head of Service	Claire Felton - Head of Legal, Democratic and Property Services	15 th June 2023
Financial Services	Peter Carpenter – Interim S151 Officer	15 th June 2023
Legal Services	Claire Felton - Head of Legal, Democratic and Property Services	15 th June 2023
Policy Team (if equalities implications apply)	N/A	N/A
Climate Change Team (if climate change implications apply)	.N/A	N/A